



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 1471-00

10 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 15 July 1975 at the age of 18. Your record reflects that you served for nearly three years without incident but on 25 August 1978 you received nonjudicial punishment (NJP) for a 16 day period of unauthorized absence (UA) and absence from your appointed place of duty. The punishment imposed was forfeitures totalling \$124 and restriction and extra duty for 14 days.

You record further reflects that on 6 March 1979 you were convicted by general court-martial (GCM) of assault and were sentenced to confinement at hard labor for 18 months, reduction to paygrade E-1, forfeitures totalling \$6,300, and a bad conduct discharge (BCD). The BCD was subsequently approved at all levels of review and ordered executed. On 31 August 1982 you received a BCD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded so that you may obtain medical benefits.

The Board also considered your contention that your discharge was a result of self defense. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of the GCM conviction for assault. The Board concluded that the assault must have been aggravated, given the referral of your case to a GCM and the lengthy period of confinement imposed. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director